

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

IN RE COLLEGE ATHLETE NIL  
LITIGATION

Case No. 4:20-cv-03919-CW

**DECLARATION OF KEVIN S. REED IN  
SUPPORT OF JOINT ADMINISTRATIVE  
OMNIBUS MOTION TO SEAL**

1 I, Kevin S. Reed, declare as follows:

2 I serve as Vice President and General Counsel for the University of Oregon. The University  
3 of Oregon is a member of the Pac-12 Conference, which is a defendant in this action. I make this  
4 Declaration based on my personal knowledge and investigation, and if called as a witness to testify,  
5 I could and would testify competently to the following facts.

6 1. This Declaration is being made in support of the Joint Administration Omnibus  
7 Motion to Seal (“Motion”), and pursuant to Civil Local Rules 7-11 and 79-5.

8 2. The University of Oregon moves to maintain the confidentiality of certain portions  
9 of document filed under seal by the Parties that contain or reflect confidential personal information  
10 of individual student-athletes.

11 3. Specifically, the University of Oregon requests that certain portions of the  
12 Opposition to Class Certification Brief (ECF No. 249) and Exhibit 1 to the Kilaru Declaration  
13 (ECF No. 251-1), as described below and as identified in the Proposed Order Regarding Joint  
14 Administrative Omnibus Motion to Seal (“Proposed Order”) as entry numbers 277 and 547, be  
15 maintained under seal.

16 4. The University of Oregon does not move to maintain confidentiality of the entries  
17 identified with entry numbers 440 and 441 in the Proposed Order. These documents, filed  
18 provisionally under seal by the Parties, do not contain any information that the University of  
19 Oregon seeks to maintain under seal, and may be filed in the public record.

20 5. A party seeking to file a document under seal must “establish that a document, or  
21 portions thereof, are sealable.” Civil L.R. 79-5(b). In connection with a dispositive motion, a  
22 designating party must demonstrate that “compelling reasons” exist to protect the information from  
23 being disclosed. *Kamakana v. City & County of Honolulu*, 447 F. 3d 1172, 1178-79 (9th Cir.  
24 2006). Redactions, instead of complete removal, can be used to place “limited and clear” portions  
25 of information outside the public record. *Id.* at 1183.

26 6. The University of Oregon can demonstrate that compelling reasons exist to  
27 maintain the following narrowly tailored redactions under seal.

28

7. The Opposition to Class Certification Brief and Exhibit 1 to the Kilaru Declaration contain and reflect confidential personal information of University of Oregon student-athletes. The University of Oregon is required to keep confidential student personal information, and such information may not be disclosed to the public without first obtaining a release from the student or parent, as FERPA (Family Educational Rights and Privacy Act, 20 U.S.C. 1232g) requires. *See Rosenfeld v. Montgomery Cnty. Pub. Sch.*, 25 F. App'x 123, 132 (4th Cir. 2001) (“[T]he district court should consider FERPA in making its determination whether sealing of the documents in question is appropriate.”).

8. Therefore, the University of Oregon supports the Parties’ Motion to redact those portions of the Opposition to Class Certification Brief and Exhibit 1 to the Kilaru Declaration which contain the personal information of individual University of Oregon student-athletes, as identified below and in the Proposed Order:

Document	Entry Number
ECF No. 249	277
ECF No. 251-1	547

9. The limited redactions proposed above are narrowly tailored, and seek to seal only individual University of Oregon student-athletes’ confidential information, the public disclosure of which would harm such third-party individuals. Disclosing these redacted portions publicly is also unnecessary in this litigation, as these student-athletes’ specific identities are irrelevant to Plaintiffs’ arguments in support of class certification.

10. For the foregoing reasons, the University of Oregon respectfully submits that compelling reasons exist to seal the information as identified above and in the Proposed Order.

///

///

1 I declare under penalty of perjury under the laws of the United States of America that the  
2 foregoing is true and correct.

3 Executed on September 29, 2023, in Eugene, Oregon.

4  
5 

6 Kevin S. Reed  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SIGNATURE CERTIFICATION**

I, Whitty Somvichian, am the CM/ECF user whose ID and password are being used to file this Declaration of Kevin S. Reed of University of Oregon in support of the Joint Administrative Omnibus Motion to Seal. In compliance with Local Rule 5-1(i)(3), I hereby attest that concurrence in the filing of this document has been obtained from each of the other signatories.

Dated: September 29, 2023

COOLEY LLP

By: /s/ Whitty Somvichian  
Whitty Somvichian

Attorneys for Defendant  
PAC-12 CONFERENCE